

Attorney Docket No.: DEX-0150
Inventors: Sun et al.
Serial No.: 09/762,021
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Groups 4-6, claims 1 and 6, drawn to a method for diagnosing the presence of colon cancer in a patient comprising assaying for a CSG mRNA encoded by SEQ ID NO:1, 2 or 3, respectively;

Groups 7-9, claims 1 and 6, drawn to a method for diagnosing the presence of colon cancer in a patient comprising assaying for a CSG gene comprising SEQ ID NO:1, 2 or 3, respectively;

Groups 10-12, claims 2 and 6, drawn to a method for diagnosing metastatic colon cancer in a patient comprising assaying for a CSG protein expressed by SEQ ID NO:1, 2 or 3, respectively;

Groups 13-15, claims 2 and 6, drawn to a method for diagnosing metastatic colon cancer in a patient comprising assaying for a CSG mRNA encoded by SEQ ID NO:1, 2 or 3, respectively;

Groups 16-18, claims 2 and 6, drawn to a method for diagnosing metastatic colon cancer in a patient comprising assaying for a CSG gene comprising SEQ ID NO:1, 2 or 3, respectively;

Groups 19-21, claims 3 and 6, drawn to a method for staging colon cancer in a patient comprising assaying for a CSG protein expressed by SEQ ID NO:1, 2 or 3, respectively;

Groups 22-24, claims 3 and 6, drawn to a method for staging colon cancer in a patient comprising assaying for a CSG mRNA encoded by SEQ ID NO:1, 2 or 3, respectively;

Groups 25-27, claims 3 and 6, drawn to a method for staging

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colon cancer in a patient comprising assaying for a CSG gene expressed by SEQ ID NO:1, 2 or 3, respectively;

Groups 28-30, claims 4-6, drawn to a method for monitoring colon cancer in a patient comprising assaying for a CSG protein expressed by SEQ ID NO:1, 2 or 3, respectively;

Groups 31-33, claims 4-6, drawn to a method for monitoring colon cancer in a patient comprising assaying for a CSG mRNA encoded by SEQ ID NO:1, 2 or 3, respectively;

Groups 34-36, claims 4-6, drawn to a method for monitoring colon cancer in a patient comprising assaying for a CSG gene expressed by SEQ ID NO:1, 2 or 3, respectively;

Groups 37-39, claim 7, drawn to antibodies against SEQ ID NO:1, 2 or 3, respectively;

Groups 40-42, claims 8-9, drawn to a method of imaging colon cancer comprising administering to a patient an antibody against SEQ ID NO:1, 2, or 3, respectively; and

Groups 43-45, claims 10-11, drawn to a method of treating colon cancer comprising administering to a patient an antibody against SEQ ID NO: 1, 2 or 3, respectively.

The Examiner suggests that each of these Groups is distinct. Specifically, the Examiner suggests that in a national stage application, claims will be considered to have unity of invention

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if the claims are drawn only to one of the following combinations of categories: (1) a product and a process specially adapted for the manufacture of said product; (2) a product and a process of use of said product; (3) a product and a process specially adapted for the manufacture of said product and a use of said product; (4) a process and an apparatus or means specially designed for carrying out said process; or (5) a product, a process specially adapted for the manufacture of the products and an apparatus or means specially designed for carrying out the process.

Applicants respectfully traverse this restriction requirement.

At the outset, it is respectfully pointed out that multiple Groups listed by the Examiner have unity of invention in the combination of categories set forth above. For example, the antibodies of Groups 37-39 are useful in the processes of Groups 40-45. Thus, restriction of these Groups based on lack of unity of invention is improper.

Further, MPEP §803 provides two criteria which must be met for a restriction requirement to be proper. The first is that the inventions be independent or distinct. The second is that there would be a serious burden on the Examiner if the restriction is not required. A proper search of the prior art relating to the any of the CSGs of Groups 1-3 should also reveal art relating to mRNAs or

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genes for these proteins as well as uses thereof as set forth in the claims of Groups 5-45.

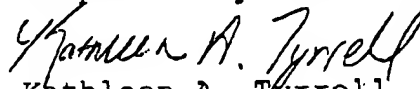
Further, the Examiner has provided no evidence whatsoever in this Restriction Requirements to support a contention that the Groups have acquired separate status in the art.

Accordingly, since this Restriction Requirement does not meet both criteria as set forth in MPEP § 803 to be proper, it is respectfully requested that this Restriction Requirement be withdrawn.

However, in an earnest effort to be completely responsive, Applicants elect Group 1, claims 1 and 6, drawn to methods of diagnosing colon cancer comprising assaying for a CSG protein expressed by SEQ ID NO:1, with traverse.

Applicants believe that the foregoing comprises a full and complete response to the Office Action of record.

Respectfully submitted,


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